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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,682	02/05/2001	Anthony Ross Glen Stollery	08059.0008	3226

7590 06/16/2004

Finnegan Henderson Farabow  
Garrett & Dunner  
1300 I Street NW  
Washington, DC 20005

EXAMINER
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JANVIER, JEAN D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/719,682

Applicant(s)

STOLLERY, ANTHONY ROSS  
GLEN

Examiner

Jean D Janvier

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MLW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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Detailed Action

*Specification*

The title of the invention should be brief, descriptive and technically accurate.

Furthermore, the title of the invention should appear on the top portion of the first page of the specification. See 37 CFR 1.72.

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

The drawings are objected to for being incomplete for not conveying any pertinent information.

*Status of the claims*

Claims 1-15 are currently pending in the Office Action.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 2 and 9 (including their dependent claims) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites a similar linked game system. It is unclear which similar linked game system the claim refers to since the parent claim 1 never mentions a linked game. For examination purpose, the claim will be broadly interpreted.

Claim 9 recites "...multiple jackpots". It is unclear whether the Applicant meant to refer to more than one jackpot or a jackpot with multiple prizes (first prize, second prize...). For examination purpose, the claim will be broadly interpreted.

Claims 10-12 (including their dependent claims) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For examination purpose, the claims will be broadly interpreted.

Claims 13-15 (including their dependent claims) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. No art rejection is provided.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Small, US Patent 4,669, 730.

As per claim 1-4 and 6-12, Small discloses a system for encouraging a customer or user to conduct a transaction at an ATM machine or at a participating retailer's or merchant's POS, wherein the customer uses a debit/credit card to withdraw money from the ATM machine or to pay for a purchase at the participating retailer's POS by inputting his PIN number into a terminal related to the ATM or POS and wherein the customer's account is automatically entered into a game of chance or sweepstakes (jackpot). Subsequently, the user or customer may win a prize (jackpot) based upon the outcome of the game of chance or the sweepstakes drawing (See abstract; col. 2: 11 to col. 4: 24). Furthermore, and in general, Small discloses the steps of:

Conducting at least one draw for each transaction at an ATM 2 terminal (fig.1) or P.O.S. Terminal 12 of fig.2 involving a debit card, ATM card or credit card (col. 6: 9-11);

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Determining an award to a buyer or customer at P.O.S. Terminal 12 based on an outcome of the draw if the user's indicia or account matches the game drawing indicia (col.5: 39-45);

Receiving from the buyer information such as user's financial institution account number (col. 5: 39-41) for the draw; and

Affecting an outcome of the draw based on the received information (col.5, lines 41-45).

In an alternate embodiment, Small discloses that his system (ATM machine or POS) can be utilized as a lottery machine, wherein the user or customer pays for the chance to enter a lottery game by authorizing the system to debit his payment or financial instrument (credit/debit card- col. 4: 25-39).

As per claim 1 and 5, Small does not expressly teach adding a percentage of the purchase amount to a jackpot total and varying by the retailers the percentages contributed.

However, It is common practice for a retailer or manufacturer to give an incentive to a customer during a transaction at a POS. For example, a participating retailer or merchant will compute from a customer's bill or balance due during a visit at the retailer's POS a certain percentage savings, due to the customer, if the customer's transaction amount falls within one or more preset thresholds (volume purchase). In other words, the percentage varied based on the value of the transaction with respect to a preset threshold.

Moreover, it is well taught in the art that a manufacturer or a retailer may provide an incentive (dollar amount) to a customer for performing a particular task and wherein this incentive or dollar amount is invested at an investment firm on behalf of the customer in an effort to encourage the customer to continue performing the particular task.

“Official Notice”.

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention to incorporate the above disclosure into the system of Small so as to provide an incentive to a customer by computing from the customer's transaction amount a certain variable percentage, due to the customer, based on the dollar amount spent during a current transaction, wherein this dollar amount meets one preset threshold value among a plurality of predetermined thresholds and wherein the computed percentage is used to pay for the chance to enter the customer's account in a lottery game or jackpot, thereby encouraging the customer to patronize or support the local participating retailer or merchant by purchasing products or services available at the retailer's POS and using a branded credit/debit card to pay for the transaction and wherein, for each transaction conducted at the retailer or another associated retailer, the customer's account number is entered into a lottery game or game of chance, which gives the customer an opportunity to win a big jackpot.

### **Conclusion**

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner

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by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (703) 305- 8469.

For information on the status of your case, please call the help desk at (703) 308-1113.

Further, the following fax numbers can be used, if need be, by the Applicant(s):

After Final- 703-872-9327

Before Final -703-872-9326

Non-Official Draft- 703-746-7240

Customer Service- 703-872-9325

JDJ

*Tanner Jean Davis*  
*06/8/04*